

Vermont State Board of Education Rules Related to Surrogate Parents

Special Education, Rule 2360

2360.3 Definitions

Parent. Whenever the words “parent” or “parents” appear in these rules, the words shall mean, as appropriate:

- (a) A biological or adoptive parent;
- (b) A legal guardian, but not the state if the student is in the custody of the Commissioner of Social and Rehabilitative Services;
- (c) A person who is acting as a parent, such as a grandparent or stepparent with whom the child lives and who is legally responsible for the child;
- (d) A foster parent who has been appointed the educational surrogate parent by the Vermont Educational Surrogate Parent Program; or
- (e) Educational surrogate parent.

2369 Educational Surrogate Parents

- (a) To insure that the educational rights of an infant, toddler, or student are protected, an educational surrogate parent shall be assigned whenever the individual is eligible for special education or is being evaluated for special education eligibility, and one of the following applies;
 - (1) The parents of the student are not known after reasonable efforts to locate them or are unavailable;
 - (2) The student is in the custody of the Commissioner of Social and Rehabilitation Services; or
 - (3) The student is 18 through 21 years of age and guardianship authority to make educational decisions on behalf of the student has been granted by a court to a Commissioner within the Agency of Human Services pursuant to Chapter 215 of Title 18.
- (b) The Commissioner of Education or a designee shall assign an individual to act as an educational surrogate parent. The Commissioner’s appointment shall be in accord with 34 C.F.R. § 300.515. The educational surrogate parent may represent the child in all matters relating to:
 - (1) The identification, evaluation, and educational placements of the child; and
 - (2) The provision of FAPE to the child.

- (c) Before making the appointment, the Commissioner or designee shall assure that the person appointed as an educational surrogate parent;
 - (1) Has no personal or professional interest that conflicts with the interests of the student to whom he or she is assigned;
 - (2) Has knowledge and skills that ensure adequate representation of the child;
and
 - (3) Is not an employee of the State Department of Education, the child's school district, or any other agency that is involved in the education or care of the child.
- (d) A foster parent shall not automatically have the rights of a parent, but may be appointed by the Commissioner of Education or his or her designee to serve as an educational surrogate parent for the child, pursuant to subsections (a) – (c), above.